

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO SUMMARY ORDERS FILED AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY THIS COURT'S LOCAL RULE 32.1 AND FEDERAL RULE OF APPELLATE PROCEDURE 32.1. IN A BRIEF OR OTHER PAPER IN WHICH A LITIGANT CITES A SUMMARY ORDER, IN EACH PARAGRAPH IN WHICH A CITATION APPEARS, AT LEAST ONE CITATION MUST EITHER BE TO THE FEDERAL APPENDIX OR BE ACCOMPANIED BY THE NOTATION: "(SUMMARY ORDER)." A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF THAT SUMMARY ORDER TOGETHER WITH THE PAPER IN WHICH THE SUMMARY ORDER IS CITED ON ANY PARTY NOT REPRESENTED BY COUNSEL UNLESS THE SUMMARY ORDER IS AVAILABLE IN AN ELECTRONIC DATABASE WHICH IS PUBLICLY ACCESSIBLE WITHOUT PAYMENT OF FEE (SUCH AS THE DATABASE AVAILABLE AT [HTTP://WWW.CA2.USCOURTS.GOV/](http://www.ca2.uscourts.gov/)). IF NO COPY IS SERVED BY REASON OF THE AVAILABILITY OF THE ORDER ON SUCH A DATABASE, THE CITATION MUST INCLUDE REFERENCE TO THAT DATABASE AND THE DOCKET NUMBER OF THE CASE IN WHICH THE ORDER WAS ENTERED.

At a stated term of the United States Court of Appeals
for the Second Circuit, held at the Daniel Patrick Moynihan
United States Courthouse, 500 Pearl Street, in the City of
New York, on the 21st day of April, two thousand eight.

PRESENT:

HON. ROSEMARY S. POOLER,
HON. RICHARD C. WESLEY,
HON. PETER W. HALL,
Circuit Judges.

ATANAS ANGELOV ATANASOV,
Petitioner,

v.

MICHAEL B. MUKASEY,
UNITED STATES ATTORNEY GENERAL,¹
Respondent.

07-3628-ag
NAC

¹ Pursuant to Federal Rule of Appellate Procedure 43(c)(2), Attorney General Michael B. Mukasey is automatically substituted for former Attorney General Alberto R. Gonzales as the respondent in this case.

1 **FOR PETITIONER:** **Ronald G. Finch, Phoenix, Arizona.**

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3 **FOR RESPONDENT:** **Jeffrey S. Bucholtz, Acting**
4 **Assistant Attorney General, Civil**
5 **Division; Mary Jane Candaux,**
6 **Assistant Director; Aaron D. Nelson,**
7 **Trial Attorney, Office of**
8 **Immigration Litigation, U.S.**
9 **Department of Justice, Washington,**
10 **D.C.**

11
12 UPON DUE CONSIDERATION of this petition for review of a
13 decision of the Board of Immigration Appeals ("BIA"), it is
14 hereby ORDERED, ADJUDGED, AND DECREED, that the petition for
15 review is DENIED.

16 Atanas Angelov Atanasov, a native and citizen of
17 Bulgaria, seeks review of a July 25, 2007 order of the BIA
18 affirming the October 19, 2005 decision of Immigration Judge
19 ("IJ") Vivienne Gordon-Uruakpa, denying his application for
20 asylum, withholding of removal, and relief under the
21 Convention Against Torture ("CAT"). *In re Atanas Angelov*
22 *Atanasov*, No. A96 257 073 (B.I.A. Jul. 25, 2007), *aff'g* No.
23 A96 257 073 (Immig. Ct. N.Y. City Oct. 19, 2005). We assume
24 the parties' familiarity with the underlying facts and
25 procedural history of this case.

26 When the BIA summarily affirms the decision of the IJ
27 without issuing an opinion, see 8 C.F.R. § 1003.1(e)(4),
28 this Court reviews the IJ's decision as the final agency

determination. *See, e.g., Twum v. INS*, 411 F.3d 54, 58 (2d Cir. 2005); *Yu Sheng Zhang v. U.S. Dep't of Justice*, 362 F.3d 155, 159 (2d Cir. 2004). This Court reviews the agency's factual findings under the substantial evidence standard. *See* 8 U.S.C. § 1252(b)(4)(B); *see also Zhou Yun Zhang v. INS*, 386 F.3d 66, 73 & n.7 (2d Cir. 2004), *overruled in part on other grounds by Shi Liang Lin v. U.S. Dep't of Justice*, 494 F.3d 296 (2d Cir. 2007) (en banc). We review *de novo* questions of law and the application of law to undisputed fact. *See, e.g., Secaida-Rosales v. INS*, 331 F.3d 297, 307 (2d Cir. 2003).

As an initial matter, we decline to review Atanasov's challenge to the pretermission of his asylum application where he failed to make any such challenge before the BIA. *See Lin Zhong v. U.S. Dep't of Justice*, 480 F.3d 104, 119-20 (2d Cir. 2007). Even if his arguments were properly exhausted, we are without jurisdiction to review the IJ's determination that Atanasov's asylum claim was untimely where he fails to raise a constitutional claim or a question of law. 8 U.S.C. §§ 1158(a)(3), 1252(a)(2)(D). Moreover, because Atanasov failed to challenge the IJ's denial of CAT relief either before the BIA or this Court, he has abandoned

1 that claim. *See Gui Yin Liu v. I.N.S.*, 508 F.3d 716, 723 n.
2 6 (2d Cir 2007).

3 We further find that the IJ properly found that
4 Atanasov failed to establish his eligibility for withholding
5 of removal. Atanasov argues that he was persecuted on
6 account of "his social group, which is an underclass of
7 Bulgarian workers with extremely limited job skills."
8 However, the BIA has explained that in order to constitute a
9 particular social group, a proposed group must (1) exhibit a
10 shared characteristic that is socially visible to others in
11 the community, and (2) be defined with sufficient
12 particularity. *Matter of A-M-E- & J-G-U-*, 24 I. & N. Dec.
13 69, 74-76 (BIA 2007). We performed that two-step inquiry in
14 *Ucelo-Gomez v. Mukasey* and found that "the petitioners
15 failed to meet their burden of proof" where "nothing
16 indicated that the individual or individuals who threatened
17 petitioners 'had any motive other than increasing their own
18 wealth at the expense of' the petitioners." 509 F.3d 70, 74
19 (2d Cir. 2007) (citing *A-M-E-*, 24 I. & N. at 76). Here, the
20 IJ noted that Atanasov had testified that he "was not paid
21 because the employer did not need [him] anymore" and that
22 "the employer threatened to kill [him] because [he]

1 disrupted the employer[']s business." There is no
2 indication that Atanasov's employer "had any motive other
3 than increasing [his] own wealth at the expense of"
4 Atanasov; therefore, the IJ properly denied withholding of
5 removal where Atanasov failed to demonstrate a nexus between
6 the harm he allegedly suffered and continues to fear and one
7 of the five protected grounds. *Ucelo-Gomez*, 509 F.3d at 74.

8 For the foregoing reasons, the petition for review is
9 DENIED.

10
11 FOR THE COURT:
12 Catherine O'Hagan Wolfe, Clerk
13
14

By: _____